

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

MARVIN LEATHERMAN

Claimant

VS.

CHEYENNE DRILLING, INC

Respondent

Self Insured

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Docket No. 214,188

ORDER

Respondent appealed the preliminary hearing Order for Compensation entered by Special Administrative Law Judge William F. Morrissey dated October 21, 1996.

ISSUES

Respondent appealed the Special Administrative Law Judge's finding that claimant's accidental injury arose out of and in the course of his employment. That is the single issue before the Appeals Board for review.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the preliminary hearing record, the Appeals Board finds as follows:

The issue raised by the respondent is a jurisdictional issue contained in K.S.A. 44-534a, as amended.

The Special Administrative Law Judge ordered the respondent to provide temporary total disability and medical benefits to claimant as a result of injuries he received in an automobile accident that occurred after claimant left the respondent's drilling site on the route home. The Special Administrative Law Judge cited the case of Messenger v. Sage Drilling Co., 9 Kan. App. 2d 435, 680 P.2d 556, rev. denied 235 Kan. 1042 (1984) as controlling. In Messenger, a case with a similar fact situation, the Court of Appeals held

the one very basic exception to the "going and coming" rule applies when claimant's travel is an integral part of the employment and furthers the interest of his employer. 9 Kan. App. 2d 435, Syl. ¶ 2.

After reviewing the evidence presented at the preliminary hearing and the legal arguments of the parties, the Appeals Board agrees with the decision of the Special Administrative Law Judge. The Appeals Board also finds that the Administrative Law Judge's analysis of the evidence and legal authorities cited in his Order for Compensation is accurate and appropriate. Therefore, the Special Administrative Law Judge's findings and conclusions are adopted and incorporated by the Appeals Board, as if specifically set forth in this Order.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Special Administrative Law Judge William F. Morrissey dated October 21, 1996, should be, and is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of December 1996.

BOARD MEMBER

c: Robert A. Levy, Garden City, KS
Edward D. Heath, Jr., Wichita, KS
Kenneth S. Johnson, Garden City, KS
Phillip S. Harness, Director